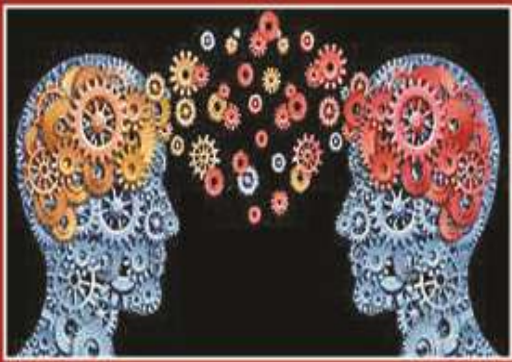
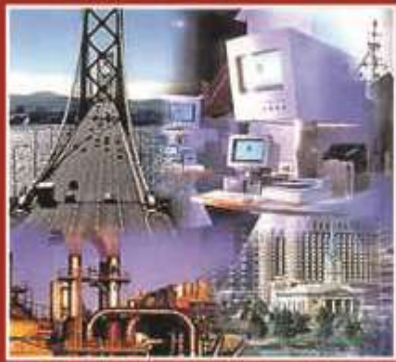
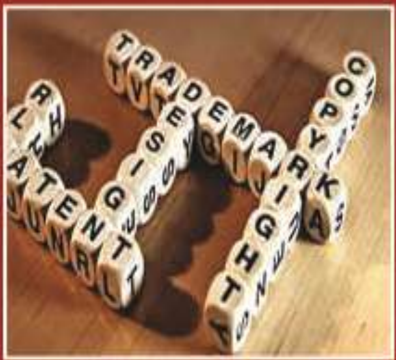
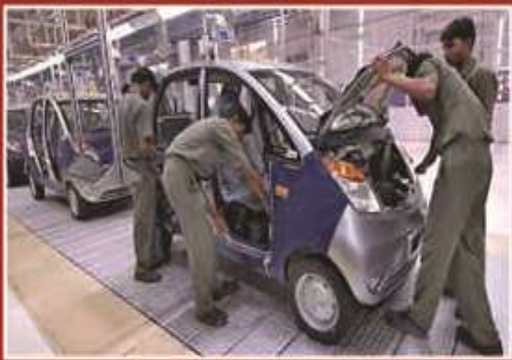
UNION BUDGET
2015

MAKE IN INDIA


DOSHI, CHATTERJEE, BAGRI & Co.

FOR PRIVATE AND INTERNAL CIRCULATION ONLY

This booklet summarises only the important proposals made by the Honourable Finance Minister in the Lok Sabha. Whilst every care has been taken in the preparation of this document it might contain errors for which we should not be held responsible. It must be emphasised that the Finance Bill could contain proposals which have not been referred to in the budget speech. The information as given in this document provides a bird's eye view on the said proposals and thus should not be relied upon for the purposes of economic decisions.

February 28, 2015

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GLOSSARY

1 Crore	=	Rs. 10 million
1 Lakh	=	Rs. 100 thousand
BCD	=	Basic Custom Duty
ACD	=	Additional Custom Duty
CVD	=	Countervailing Duty
SAD	=	Special Additional Duty
AED	=	Additional Excise Duty
SAED	=	Special Additional Excise Duty
MAT	=	Minimum Alternate Tax
GST	=	Goods & Service Tax
FII	=	Foreign Institutional Investor

FOREWORD

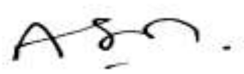
The Finance Minister Mr. Arun Jaitley presented his first full fledged Budget for a full fiscal year in the Parliament today. As expected, the budget presented, outlined some measures aimed towards stimulating the economy, managing expectations and utmost to contain fiscal deficit.

Even though the budget contrary to popular belief was devoid of populist measures, it did spell out initial steps taken towards decreasing inflation, strengthening infrastructure, insuring good governance through the covenant of make in India.

In his speech he spelt out the vision of the Prime Minister for "Team India" to take the country to its 75th year of Independence in 2022. After a long wait, finally he announced that GST was going to be implemented from 1 April 2016, the Direct Tax Code introduced by the earlier Government would be shelved and the implementation of GAAR would be deferred by another two years.

In his speech the Finance Minister also announced long awaited measures to be taken to bring the unaccounted money stashed abroad as well as measures to curb the menace of domestic black money by proposing to amend the relevant legislation in this regard.

The implementation and implications of the budget as proposed will be evident as the year progresses but hopefully more policy decisions would be taken in order to ensure that India achieves its targeted growth at a buoyant pace.



Kolkata **Ajay K. Doshi**

February 28, 2015.

HIGHLIGHTS OF ECONOMIC SURVEY 2014-15

FISCAL DEFICIT

- India must meet its medium-term fiscal deficit target of 3 percent of GDP.
- Government will adhere to fiscal deficit target of 4.1 percent of GDP in 2014/15.
- Govt should ensure expenditure control to reduce fiscal deficit.
- Expenditure control and expenditure switching to investment key.

GROWTH

- 2015/16 GDP growth seen at over 8 pct y/y.
- Double digit economic growth trajectory now a possibility.
- Economic growth at market prices seen between 8.1 - 8.5 percent in 2015/16 on new GDP calculation formula.
- Total stalled projects seen at about 7 percent of GDP, mostly in private sector.

REFORMS

- There is scope for big bang reforms now.
- India can increase public investments and still hit its borrowing targets.

INFLATION

- Inflation shows declining trend in 2014/15.
- Inflation likely to be below central bank target by 0.5 - 1 percentage point.
- Lower inflation opens up space for more monetary policy easing.
- Govt and central bank need to conclude monetary framework pact to consolidate gains in inflation control.
- Consumer inflation in 2015/16 likely to range between 5-5.5 percent.

FISCAL CONSOLIDATION

- Govt remains committed to fiscal consolidation.
- India can balance short-term imperative of boosting public investment to revitalize growth with fiscal discipline.
- Outlook for external financing is correspondingly favourable.

CURRENT ACCOUNT DEFICIT

- Estimated at about 1.3 percent of GDP in 2014/15 and less than 1.0 percent of GDP in 2015/16.

SUBSIDIES

- Overhauling of subsidy regime would pave the way for expenditure rationalisation.

LIQUIDITY

- Liquidity conditions expected to remain comfortable in 2015/16.

HIGHLIGHTS OF UNION BUDGET 2015

INCOME TAX

- Personal Income Tax: No change in the basic exemption limit has been proposed and it will be as under:

Category	Limit
Senior Citizen (in age group of 60-80 Years)	Rs. 3,00,000
Senior Citizen above age of 80 years	Rs. 5,00,000
General	Rs. 2,50,000

- Tax rates for individuals and HUF will remain same as under:

Income range	Rate of Tax
Upto respective exemption limit	NIL
Amount in excess of respective exemption limit up to Rs 5,00,000	10%
Rs 5,00,001 - Rs 10,00,000	20%
Above Rs 10,00,000	30%

- No change in the tax rate has been proposed for companies. The tax rate will remain at 30% for domestic companies and 40% in case of other companies. No change in the basic rate of tax under MAT.
- It is proposed that the tax rate for companies will be reduced from 30% to 25% over the next four years starting from next financial year.
- Surcharge is proposed to be increased by 2% wherever it was applicable last year except for non domestic companies where no change is being proposed. Thus the proposed surcharge rates will be as under:

Category	Rate
Individuals having income above Rs 1 crore	12%
Firm, Co-operative Society & Local Authority having income above Rs 1 crore	12%
Domestic Companies having total income above Rs 1 crore but not above Rs 10 crore	7%
Domestic Companies having total income above Rs 10 crores	12%
Non Domestic Companies having total income above Rs 1 crore but not above Rs 10 crore	2%
Non Domestic Companies having total income above Rs 10 crores	5%

- Surcharge is proposed to be levied @12% on minimum alternate tax, tax on distributed profits / income etc.
- No change is proposed in the rates of Education Cess and Higher Education Cess.
- It is proposed to amend the requirement for a company to become resident in India. A company will be deemed to be resident in India if its place of effective management (a place where key management and commercial decisions are made) at any time during the year is in India. Earlier the requirement was situation of control and management of its affairs wholly in India during the year.

- It is proposed to allow deduction on account of investment allowance under a new section (Section 32AD) @15% on new plant and machinery acquired and installed on or after 1st April 2015 but before 1st April 2020 in the notified backward area of Andhra Pradesh and Telangana. This benefit will be available to an undertaking or enterprise which is being set up on or after 1st April 2015. **If the value of investment in plant and machinery exceeds Rs 25 crores then the assessee is likely to get double benefit of investment allowance under the old section 32AC as well as under Section 32AD.**
- It is proposed to allow additional depreciation at a higher rate of 35% (as against general rate of 20%) for new plant and machinery acquired and installed on or after 1st april2015 but before 1st April 2020 in the notified backward area of Andhra Pradesh and Telangana. **Thus such assets will be entitled for depreciation of 50% (15% normal and 35% additional) in the year of acquisition and installation provided these are used for more than 180 days and taking the benefit of investment allowance, the maximum amount of deduction could be 65% (80% in case the value of investment is more than Rs 25 crores).**
- Wherever additional depreciation is allowable on new plant and machinery which is used for less than 182 days, additional depreciation is proposed to be allowed to the extent of 50% of the amount calculated in the year of acquisition. The balance 50% of the additional depreciation is proposed to be allowed in immediately succeeding year. **This amendment has been proposed to put to rest the controversy on this account where additional depreciation is claimed at full rate by some tax payers even the assets is installed and put to use for less than 180 days.**
- Advancement of any other object of general public utility is currently not considered as activity for charitable purpose if it involves carrying out any activity in the nature of trade. Commerce, business etc. However this restriction is not applicable if the aggregate receipt is Rs 25 lacs or less. It is now proposed that the restriction will not apply provided the aggregate receipt from such activity do not exceed 20% of the total receipt and such activity is undertaken in course of actual carrying out of such advancement of any other object of general public utility. **This amendment will help the bigger trust or institutions. But smaller trusts who were enjoying the threshold of Rs 25 lacs may suffer if their total receipt is less than Rs 125 lacs.**
- Under existing provision income of charitable trust or institute, if cannot be applied during the previous year, exemption can still be obtained if the same is accumulated and applied in future subject to certain conditions. It is proposed that necessary form and / or statement for accumulation is required to be filed on or before the due date of filing of Income Tax Return. The time limit for accumulation of 85% of the amount is proposed to be reduced from 10 years to 5 years.
- Acceptance of any sum of money in relation to transfer of an immovable property, whether as an advance or otherwise or repayment of such advance in excess of Rs 20,000 in cash is proposed to be restricted under Section 269SS and Section 269T. These amendments will take place with effect from 1st June 2015.
- Any subscription in the name of a girl child in specified scheme is proposed to be included as eligible deduction under Section 80C. This amendment will be retrospective with effect from A.Y. 2015-16.
- Benefit under Section 80CCC for contribution to certain annuity plan of Life Insurance Corporation of India or any other insurer for receiving pension is proposed to be increased from Rs 1,00,000 to Rs 1,50,000.
- Benefit under Section 80D towards health insurance premium is proposed to be increased from Rs 15,000 to Rs 25,000. The limit of deduction for senior citizens is proposed to be increased from Rs 20,000 to Rs 35,000. Deduction up to Rs 30,000 is proposed to be allowed to very senior citizen on account of medical expenses incurred without any health insurance coverage.

- Deduction under Section 80DD for medical treatment of a dependant with disability is proposed to be increased from Rs 50,000 to Rs 75,000 (for disability) and from Rs 1,00,000 to Rs 1,25,000 (for severe disability).
- 100% deduction is proposed to be allowed under Section 80G towards donations made to Swachh Bharat Kosh and Clean Ganga Fund set up by Central Government. However, if the sum is spent in pursuance of Corporate Social Responsibility (CSR) under the Companies Act 2013 then the benefit under Section 80G will not be available. **Thus the companies will be denied to take benefit of such donation under the Companies Act for meeting its obligation towards CSR.** This amendment will be retrospective with effect from A.Y. 2015-16.
- The limit of 100 existing workmen is proposed to be reduced to 50 existing workmen to claim the deduction @ 30% of additional wages paid to new workmen over and above the existing workmen.
- For the purpose of applicability of transfer pricing regulations, the threshold limit of specified domestic transaction is proposed to be increased from Rs 5 crores to Rs 20 crores. Thus assessee having specified domestic transaction aggregating to Rs 20 crores will not be required to submit transfer price report under Section 92E.
- The provision relating to General Anti-Avoidance Rule (GAAR) is proposed to be deferred further. Now it will be made applicable from A.Y. 2018-19. Once implemented, investments made on or after 01.04.2017 will be covered under GAAR.
- Rate of tax in case of non- resident taxpayer on income by way of royalty or fees for technical services is proposed to be lowered from 25% to 10%.
- The definition of Global depository Receipt (GDR) is proposed to be amended. Ordinary shares of issuing company should be to a company listed in recognized stock exchange in India. Listing was not a condition earlier.
- While computing book profits for the purpose of Minimum Alternate Tax (MAT), share of the company in the profit of an AOP and income from transaction in securities (other than short term capital gains arising on transactions on which security transaction tax is not chargeable) arising to a foreign institutional investor which has invested in such security in accordance with regulations made by SEBI are proposed to be excluded. Accordingly expenditure incurred corresponding to such income are also proposed to be added back to book profit for the purpose of MAT.
- Concessional rate of 5% withholding tax on interest payment to FIIs and QFIs on their investment in Government Security and corporate bond is proposed to be extended to 30th June 2017 from 30th June 2015. This amendment will be applicable from 1st June 2015.
- It is proposed that an ITAT bench constituted of a single member may dispose of a case involving total income as computed by the Assessing Officer (AO) is Rs 15 lacs or less. This amendment will be applicable from 1st June 2015.
- It is proposed to provide CBDT the power to make rules relating to the procedure for granting relief or deduction of any income tax paid in any country outside India against the Income Tax payable in India.
- It is proposed that tax payers can file Form No 15G/15H with Insurance Companies for non deduction of tax at source from payments made under Life Insurance policies if the tax on income of the tax payer is estimated to be nil. This amendment will be applicable from 1st June 2015.
- The requirement of Tax Deduction Account Number (TAN) is proposed to be not applicable to such persons as may be notified by the Central Government.
- It is proposed that University, educational institutions, hospitals etc claiming exemption under Section 10(23C) shall be required to file Income Tax Return.
- It is proposed that notice under Section 148 for re-assessment shall be issued by the AO up to 4 years from the end of relevant A.Y. with the approval of Joint Commissioner and beyond 4 years, it shall be issued with the approval of Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner. This amendment will be applicable from 1st June 2015.

- Benefit of non deduction of tax at source under Section 194C on payments to transport contractors is proposed to be restricted to such transporters owning not more than 10 goods carriages at any time during the year. Till now this relaxation of non deduction was available on payments to all transport contractors irrespective of number of vehicles owned. This amendment will be applicable from 1st June 2015.
  This will increase work load of the large manufacturing units on account of deduction of tax at source from payment to transporters since most of the transporters employed by them will be outside the purview of the relaxation. This will also lead to increased work load on account of other related compliance like taking of declaration and monitoring the cases where exemption is sought.
- In case of withdrawal from accumulated balance of Provident Fund, tax is proposed to be deducted @ 10% under Section 192A with an exception if the payment is less than Rs 30,000. It is also proposed that tax payers can file Form No 15G/15H for non deduction of tax at source from such payments if the tax on income of the tax payer is estimated to be nil. It has also been proposed that the employee will be required to furnish his or her PAN failing which tax will be deducted at maximum rate. This amendment will be applicable from 1st June 2015.
- In case of companies claiming benefit under Section 35 for in house research and development, it is proposed to add more conditions to be fulfilled with regard to maintenance of accounts and furnishing of prescribed reports.
- It is proposed that auditor not eligible to be appointed as auditor under the Companies Act shall also be ineligible to do audit and issue report under Income Tax. Similar restriction will apply in case of non corporate assessee. However, such person will not be ineligible to appear before Income Tax authorities.
- In case of demerger if the resultant company is an Indian Company, it is proposed that cost of asset in the hands of resulting company will be cost of such asset in the hands of demerged company. The period of holding in case of resulting company is proposed to include the period of holding of the demerged company.
- It has been proposed that a foreign company shall be deemed to be a company situated in India if the fair market value of its assets located in India exceeds Rs 10 crores and such assets represent at least 50% of the assets owned by such company.
- Tax "pass through" is proposed to be allowed to both Category I and category II alternative investment funds. Rental income of REIT from their own assets to have pass through facility.
- TCS statement is proposed to be processed on the same line as in the case of TDS statements.
- It is proposed to freeze tax litigation arising out of an order passed by Commissioner (Appeals) in a case where identical question of law is pending before Supreme court.

CUSTOMS DUTY

- No change in the peak rate of duty.
- Increase in duty proposed on motor vehicle for transport of 10 or more persons and for transportation of goods and metallurgical coke.
- Decrease in basic duty on specified components used in manufacture of CNC Lathe machine & machining centres, metal parts used in manufacturing of cables and wires.
- Exemption proposed on Digital still image video camera
- Tariff rate on iron and steel increased from 10% to 15%

EXCISE DUTY

- General rate of duty is increased to 12.5% *ad valorem from 12.36% (*with education cess). There will be no levy on account of education cess.

- Time limit for availing CENVAT credit on input is increased from 6 months to 12 months.
- Increase in duty proposed on water including mineral water, aerated water, cigarettes, cut tobaccos, plastic sacks and bags, mobile phones.
- Decrease proposed on chassis for ambulance, specified components used in Integrated circuits for smart cards and LED drivers, specified leather footwear exceeding Rs 1000 per pair.
- Full exemption of duty is proposed on specified components used in tablet computers, pacemakers, wind operated generators, solar PV cells.
- Online registration under Central Excise within 2 days.
- Increase in scheduled rate of clean energy cess levied on Coal, Lignite etc.
- Increase in tariff rate of excise duty on ordinary Portland cement from Rs 900 per M/T to Rs 1000 per M/T.

SERVICE TAX

- The rate of service tax of is proposed to be increased to 14%. No change is proposed in the threshold limit of exemption up to Rs.10,00,000.
- It is proposed that there will be no levy of education Cess or higher education Cess.
- Negative list is proposed to be pruned
- Service tax is proposed on access to amusement facility
- Service Tax is proposed on admission to concerts, entertainment events, non recognized sporting events, music concerts, award functions etc if entry price exceeds Rs 500.
- Service Tax exemption is proposed on services of preconditioning, pre-cooling etc of fruit & vegetables. Life Insurance service under Varishtha Pension Bima Yojana, Ambulance Services, transport of goods for export by road from factory to land custom station, services provided by common effluent treatment plant operator.
- Manpower supply and security services provided by an individual, HUF or firm to a body corporate will now be covered under full reverse charge mechanism i.e. 100% of service tax has to be paid by the service recipient directly.
- A uniform abatement to the effect that service tax shall be payable on 30% of the value of services for transport of goods by rail, road and vessel subject to a uniform condition of non-availment of Cenvat Credit on inputs, capital goods and input services.
- Consequent to the upward revision in the service tax rates the alternative rates applicable to certain services, e.g., money changing service, air travel agent service, insurance service, service provided by lottery distributor and selling agent, shall also be revised proportionately.
- Rule 4 (7) is being amended with effect from 01.04.2015 to allow credit of service tax paid under partial reverse charge by the service receiver without linking it to the payment to the service provider.

OTHERS

- Goods and Service Tax (GST) is proposed to be made applicable from 1st April 2016.
- Direct Tax Code (DTC) is shelved.
- PAN is made mandatory on transaction of purchase and sales in excess of Rs 1 lacs
- Wealth Tax is proposed to be abolished.
- New law proposed on black money with severe penalty, punishment, mandatory filing of return in respect of foreign assets etc
- Benami Transaction (Prohibition) Bill is proposed to be introduced to curb domestic black money.
- Central Excise / Service Tax assesses to be allowed to use digitally signed invoices and to maintain record electronically.

INCOME TAX PROPOSALS

A. RATES OF INCOME TAX AND SURCHARGE

The Finance Minister has not proposed any change in the basic rates of Income Tax and Education Cess for all tax payers.

However, it is proposed that surcharge on income tax for non-corporate tax payers will increase from 10% to 12% in case of a person having a total income exceeding Rs. 1 Crore.
In case of corporate tax payers, surcharge @ 7% instead of existing 5% is proposed to be levied in case of domestic company if the total income of such company exceeds Rs. 1 Crore but does not exceed Rs.10 Crore.

The surcharge @ 12% instead of existing 10% is proposed to be levied if the total income of the domestic company exceeds Rs. 10 Crore.

In the case of non-domestic companies there is no change in the rate of surcharge which will be continued to be levied at 2% if the total income exceeds Rs.1 Crore but does not exceed Rs.10 Crore and @ 5% if the total income exceeds Rs.10 Crore.

Surcharge is also proposed to be levied at the increased rate of 12% in the following cases:

a) Tax on distributed profits of domestic companies (dividend distribution tax) under section 115O of the Income Tax Act.

b) Tax on distributed income for domestic company for buy back of shares under section 115QA of the Act.

c) Tax on distributed income of unit holders under section 115R of the Act.

d) Tax on distributed income to investor by securitization trusts under section 115TA of the Act.

COMMENT

The Finance Minister, in his speech, has mentioned about the possibility of bringing rates down to 25% from existing 30% over a period of next four years. However, such reduction comes with a caveat that various exemptions and deductions under the Act will be pruned.

B. MEASURES TO CURB BLACK MONEY

The mode of taking or accepting certain loans, deposits and specified sums and mode of repayment of loans or deposits and specified advances

The existing provisions of section 269SS of the Act, subject to certain exceptions, provide that no person will take from any person any loan or deposit otherwise than by an account payee cheque or bank draft or online transfer through a bank account if the amount of such loan or deposit is Rs.20,000/- or more.

Similarly, the existing provisions of section 269T of the Act provide that any loan deposits will not be repaid otherwise than by an account payee cheque or bank draft or online transfer through a bank account by the person specified in the section if the amount of loan or deposit is Rs.20,000/- or more.

In order to curb generation of black money by way of dealings in cash in immovable property transactions, the Finance Bill proposes to amend section 269SS of the Act so as to prohibit acceptance from any person any sum of money, whether as advance or otherwise, in relation to transfer of immovable property otherwise than by way account payee cheque or bank draft or by electronic clearing system through a bank account if such amount is Rs.20,000/- or more.

The Finance Bill also proposes to amend section 269T of the Act providing for similar mode of repayment as mentioned in the preceding paragraph in relation to any sum of money in the nature of advance. It is also proposed to provide that the specified advance will mean any sum of money in the nature of advance by whatever name called in relation to transfer of an immovable property whether or not the transfer takes place.

These amendments will take effect from 1 June 2015.

C. MEASURES TO PROMOTE DOMESTIC MANUFACTURING AND IMPROVING THE INVESTMENT CLIMATE (Make in India)

Deferment of provisions relating to General Anti- Avoidance Rule (GAAR)

The existing provisions of GAAR which were to come into effect from the assessment year 2016-17 and onwards are proposed to be deferred by two years and accordingly will apply to the income of the financial year 2017-18 relevant to the assessment year 2018-19 and subsequent years.

It is also proposed to protect investment made up to 31 March 2017 from the applicability of GAAR by way of amendment in the relevant rule in this regard.
This amendment will take effect from 1 April 2015.

Pass through status category-I and category –II Alternative Investment Funds (AIFs).

The Finance Bill, 2015 proposes to rationalise the taxation of category I and category II AIFs by providing special tax regime. The taxation of income of such AIFs and their investor will be in accordance with the proposes regime which is applicable to such AIFs irrespective of whether they are set up as a Trust, Company or a Limited liability firm etc.

This amendment will take effect from 1 April 2016 in relation to the assessment year 2016-17 and subsequent assessment years

Fund Managers in India not to constitute business connection of off-shore funds

Under the existing provisions of the Act, in the case of off shore Fund, the presence of a Fund Manager in India may create sufficient nexus of the off shore fund with India and constitute business connection in India resulting in taxation of such fund in India even though the Fund Manager may be an independent person. Similarly, if the Fund Manager located in India undertakes fund management activity in respect of investment outside India of an off shore fund, the profits made by the fund manager from such investment may be liable to be taxed in India due to creation of a business connection in India. Such business connection may result in taxation of off shores in India.

The Finance Bill proposes a specific regime to provide that in the case of an eligible fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund will not constitute a business connection in India of the said fund. It also proposes that an eligible investment fund will not be regarded as a resident in India merely because the eligible fund manager undertaking fund management invests on its behalf is located in India. However, this specific exception from the general rules for determining business connection and resident status of off shore fund and fund management activity undertaken on his behalf is subject to certain conditions.

These amendments will take effect from 1 April 2016 in relation to the assessment year 2016-17 and subsequent assessment years.

Incentives for the state of Andhra Pradesh and the state of Telengana

a) Additional investment allowance

The Finance Bill proposes to insert section 32AD to provide for an additional investment allowance of an amount equal to 15% of the cost of new assets acquired and installed by a tax payer if –

i) The tax payer sets up an undertaking for manufacturing or production of any article or thing on or after 1 April 2015 in any notified backward area in the states of Andhra Pradesh and Telengana.

ii) The new assets are acquired and installed for the purpose of the said undertaking during the period beginning from 1 April 2015 to 31 March 2020.

This additional investment allowance is proposed to be made available over and above the existing deduction available under section 32AC of the Act.

b) Additional depreciation @ 35%

Under the existing provisions of the Act, additional depreciation @ 20% is allowed under section 32(1)(iia) in order to incentivize acquisition and installation of plant and machinery for setting up of manufacturing units. It is proposed to allow higher additional depreciation @ 35% in respect of the actual cost of new machinery or plants acquired and installed by a manufacturing unit in the notified backward areas of the states of Andhra Pradesh and Telengana on or after 1 April 2015 but before 1 April 2020.

These amendments will take effect from 1 April 2016 in relation to the assessment year 2016-17 and subsequent assessment years.

COMMENT

The incentives which have been provided to the States of Andhra Pradesh and Telengana is likely to result in a first year deduction from the taxable profit to the tune of 80% of the cost of new plant and machinery. This 80% will consist of the following items:

a) Normal depreciation @ 15%

b) Proposed additional depreciation @ 35%

c) Proposed additional investment allowance to the extent of 15% under section 32AD.

d) Investment allowance under section 32AC (1A) to the extent of 15% provided the cost of new plant and machinery exceeds Rs.25 Crore.

In other words, the cost of new plant and machinery if acquired and installed in a backward district in the states of Andhra Pradesh or Telengana after 1 April 2015 can be substantially written off in the first year itself.

Taxation Regime for Real Estate Investment Trusts (REIT) and Infrastructure Investment Trusts (Invit)

Under the existing regime of taxation for REIT and Invit, it is inter alia provided for deferral of capital gains to the sponsor of business trust. However, such deferral places the sponsor at a disadvantageous tax position vis - a – vis direct listing of the shares of the SPV. In case the sponsor holding the shares of the SPV decides to exist through the IPO route then the benefit of concessional tax regime relating to capital gains arising on transfer of shares is available to him. However, the benefit of concessional regime is not available to the sponsor at the time it off loads units of business trust acquired in exchange of its shares holdings in the SPV through initial offer at the time of listing of business trust on the stock exchange.

The Finance Bill proposes to provide parity as below:

i) The sponsor would get the same tax treatment on off loading all units under an initial offer on listing of units as it would be available had he off loaded the underlying shareholding through an IPO.
ii) STT will be levied on sale of such units of business trust which are acquired in lieu of shares of SPV under an initial offer at the time of listing of units of the business trust on similar lines as in the case of sale of unlisted equity shares under IPO.
iii) The benefit of concessional tax regime of tax @ 15% on STCG, an exemption of STCG will be available to the sponsor on sale of units received in lieu of shares of SPV subject to levy of STT.

In case of a REIT the income is predominantly in the nature of rental income. This rental income arises from the assets held directly by REIT or held by it through a SPV. The rental income received at the level of SPV gets passed through by way of interest or dividend to the REIT. The rental income directly received by the REIT is taxable at REIT level and does not get passed through benefit.

The Finance Bill proposes to provide a pass through status to the rental income arising to REIT from real estate property directly held by it.

These amendments will take effect from 1 April 2016 relevant to the assessment year 2016-17 and the subsequent assessment years.

Reduction in the rate of tax on income by way of Royalty and Fees for Technical Services in case of non-residents

The Finance Bill proposes to reduce rate of tax on income by way of royalty and fees for technical services in case of non-residents from existing 25% to 10%.

This amendment will take effect from 1April 2016 relevant to the assessment year 2016-17 and subsequent assessment years.

Deduction for Employment of new workmen

Under the existing provisions of section 80JJAA of the Act a deduction is provided to an Indian company deriving profits for manufacturing of goods in a factory. The quantum of deduction allowed is equal to 30% of additional wages paid to the new regular workmen employed by the tax payer in such factory for three assessment years including the assessment year relevant to the previous year in which such employment is provided. Further, under the existing provisions such deduction is available to units employing 100 regular workmen.

The Finance Bill proposes to amend the section so as to extend the benefit to all tax payers having manufacturing units rather than restrict it to corporate tax payers only. It is also proposed to reduce the number of regular workmen from 100 to 50.

These amendments will take effect from 1 April 2016 relevant to the assessment year 2016-17 and subsequent assessment years.

Allowance of balance 50% additional depreciation

Under the existing provisions of section 32(1)(iia) additional depreciation of 20% of the cost of new plant and machinery is allowed. However such additional depreciation is restricted to 50% if such plant and machinery is used for the purpose of business or profession for a period of less than 180 days.

The Finance Bill proposes that in the case mentioned above, the balance 50% depreciation will be allowed in the immediately succeeding assessment year.

This amendment will take effect from 1 April 2016 relevant to the assessment year 2016-17 and subsequent assessment years.

COMMENT

The said proposal is in line with various judicial pronouncements and it will reduce the litigation.

D. EASE OF DOING BUSINESS / DISPUTES RESOLUTIONS

Clarity relating to indirect transfer provisions

The Finance Act, 2012 had inserted Explanation 5 to Section 9(1)(i) which provides that an asset or capital asset being any share or interest in a company or entity incorporated or registered outside India will be deemed to be situated in India if the share or interest derives directly or indirectly its value substantially from the asset located in India.

In view of concerned raised by various stake holders an expert committee was set up by the Government to go into various aspects relating to the amendments made by the Finance Act, 2012. In order to give effect to the recommendations, the Finance Minister proposes the following amendments in the provisions of Section 9 relating to indirect transfer:

(i) The share or interest of a foreign company or entity will be deemed to derive its value substantially from the assets located in India, if on the specified date, the value of Indian assets:-
    (a) Exceeds the amount of Rs. 10 Crore; and
    (b) Represents at least fifty per cent of the value of all the assets owned by the company or entity.

(ii) Value of an asset shall mean the fair market value of such asset without reduction of liabilities, if any, in respect of the asset.

(iii) The specified date of valuation shall be the date on which the accounting period of the company or entity, as the case may be, ends preceding the date of transfer.

(iv) However, if the book value of the assets of the company on the date of transfer exceeds by at least 15% of the book value of the assets as on the last balance sheet date preceding the date of transfer, then instead of the date mentioned in (iii) above, the date of transfer shall be the specified date of valuation.

(v) The manner of determination of fair market value of the Indian assets vis-à-vis global assets of the foreign company will be prescribed in the rules.

(vi) The taxation of gains arising on transfer of a share or interest deriving, directly or indirectly, its value substantially from assets located in India will be on proportional basis. The method for determination of proportionality is proposed to be provided in the rules.

(vii) The exemption will be available to the transferor of a share of, or interest in, a foreign entity if he along with its associated enterprises.
(a) Neither holds the right of control or management
(b) Nor holds voting power or share capital or interest exceeding five per cent of the total power or total share capital
in the foreign company or equity directly holding the Indian assets (direct holding company).

(viii) In case the transfer is of shares or interest in a foreign equity which does not hold the Indian assets directly then the exemption will be available to the transferor if he along with its associated enterprises-
(a) neither holds the right of management or control in relation to such company or the entity
(b) nor holds any rights in such company which would entitle it to either exercise control or management of the direct holding company or entity or entitle it to voting power exceeding five percent, in the direct holding company or entity.

(ix) Exemption will be available in respect of any transfer, subject to certain conditions in a scheme of amalgamation, of a capital asset, being a share of a foreign company which derives, directly or indirectly, its value substantially from the shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company.

(x) Exemption will be available in respect of any transfer, subject to certain conditions, in a demerger, of a capital asset, being a share of a foreign company which derives, directly or indirectly, its value substantially from the shares of an Indian company, held by the demerged foreign company to the resulting foreign company.

The proposed amendment also provides for certain reporting / obligations on the Indian concern through or in which Indian assets are held by the foreign company. It is also provides for certain penal action in case of failure on the part of the Indian concern.

These amendments will take effect from 1 April 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

COMMENT

The inclusion of associated enterprise while determining the extent of holding will effectively mean a reduced exemption and enlarging the scope of indirect transfers which will be taxable in India. This may lead to litigations.

Raising the threshold for specified domestic transaction

Under the existing provisions of Section 92BA "specified domestic transaction' mean any of the specified transaction, not being an international transaction where the aggregated of such transaction entered into by a taxpayer exceeds to sum of Rs 5 Crore.

The Finance Bill proposes to increase the limit to Rs.20 Crore.

This amendment will take effect from 1 April 2016 relevant to the assessment year 2016-17 and subsequent assessment years.

Rationalization of definition of charitable purposes in the Income Tax Act

The Finance Bill proposes to include "Yoga", as a specific category in the definition of charitable purposes on the line of education.

Existing provisions relating to charitable purposes provide that advancement of any other object or public utility will not be treated as charitable purpose if it involves carrying on of any activity in the nature of trade, commerce or business, etc, for a cess or fee or any other consideration, irrespective of the nature of use or application or retention of the income from such activity.

However, this restriction does not apply if the aggregate value of the receipt from the activities referred above is Rs. 25 lakh or less.

The Finance Minister proposes to amend the definition of charitable purposes to replace the said limit of Rs.25 lakh by 20% of the total receipts in a year of the trust or institution undertaking activities mentioned above.

This amendment will take effect from 1 April 2016 relevant to the assessment year 2016-17 and subsequent assessment years.

COMMENT

Replacement of the absolute limit of Rs.25 lakh by 20% of the total receipts in a year of the Trust or Institution will benefit only those entities whose total receipts are more than Rs.125 lakh in a year. In case of smaller trusts whose total receipt are less than Rs. 125 lakh, the provision may have the effect of bringing such small trusts in the tax net.

Tax neutrality in merger of similar schemes of mutual funds

In order to provide tax neutrality on merger of similar scheme of mutual funds, which otherwise are treated as transfer and liable for capital gains tax in the hands of the unit holders under the Act, it is proposed to neutrilise unit holders upon consolidation or merger or mutual funds schemes provided that the consolidation is of two or more scheme of an equity oriented fund or two or more scheme of a fund other than that of equity oriented fund.

This amendment will take effect from 1 April 2016 relevant to the assessment year 2016-17 and subsequent assessment year.

Procedure for appeal by revenue when an identical question of law is pending before the Supreme Court

On the existing lines of Section 158A of the Act, which is for the benefit of the tax payer, it is proposed to insert a new Section 158AA for the benefit of the revenue. The proposed section provides for freezing of tax litigation arising out of an order passed by the Commissioner of Income Tax (Appeals) in a case where identical question of law is pending before Supreme Court.

This amendment will take effect from 1 June 2015.

Enabling the board to notify rules of giving foreign tax credit

Since the Act does not provide the manner for granting credit of tax paid in any country outside India, it is proposed to amend Section 295(2) of the Act so as to enable the CBDT to make rules to provide for procedure for granting relief or deduction, as the case may be, of any income tax paid in any country outside India under section 90 or under section 90A or under section 91 against the income tax payable under the Act.

This amendment will take effect from 1 June 2015.

Abolition of levy of wealth tax under the Wealth Tax Act 1957

The Finance Bill proposes to do away with the levy of wealth tax with effect from 1 April 2016 relevant to the assessment year 2016-17 and subsequent assessment years.

E. BENEFIT FOR INDIVIDUAL TAXPAYWERS

Tax benefit under section 80C for the Girl child under the Sukanya Account Scheme

Benefits arising to investments made under the said scheme are as below:

(i) Investments made in the scheme are eligible for deduction under section 80C of the Act

(ii) Interest accruing on deposit in such account will be exempt from Income tax.

(iii) Withdrawal from the said scheme in accordance with the rules scheme will be exempt from tax.

Accordingly, a new clause (11A) is proposed to be inserted in Section 10 of the Act so as to provide that any payment from an account opened in accordance with the scheme will not be included in the total income of the tax payer. As a result the interest accruing on deposit in and withdrawal from any account under the scheme would be exempt.

To enable the deduction under section 80C to the parent or legal guardian of the girl, section 80C is proposed to be amended so as to provide that a sum deposited during the year in the scheme would be eligible for deduction under section 80C of the Act.

This amendment will take effect retrospectively from 1 April 2015 relevant to the assessment year 2015-16 and subsequent assessment years.

Amendment in Section 80D relating to the deduction in respect of Health Insurance Premium

The quantum of deduction under Section 80D is proposed to be raised from existing Rs.15,000 to Rs.25,000 in case of non-senior citizens and from Rs.20,000 to Rs.30,000 in case of senior citizens.

In case of very senior citizens who are often unable to get health insurance coverage it is proposed that payment made on account of medical expenditure will be allowed as a deduction under this section up to Rs.30,000. It is, however, provided that such very senior citizens should not have any insurance on their health.

This amendment will take effect from 1 April 2016 relevant to the assessment year 2016-17 and subsequent assessment years.

Raising limit of deduction under Section 80DDB

Under the existing provisions of Section 80DDB, a resident taxpayer in India is allowed a deduction up to Rs.40,000 being the amount actually paid for the medical treatment of certain diseases. This deduction is allowed up to Rs.60,000 where the expenses is in respect of a senior citizen.

The deduction is subject to obtaining a certificate in the prescribed format from a specified doctor working in a Government Hospital.

Since this requirement causes undue hardship to the taxpayer it is proposed that the taxpayer will be required to obtain a prescription from a specialist doctor.

It is also proposes to amend 80DDB to provide for deduction up to Rs.80,000 for the expenditure incurred in medical treatment of a very senior citizen.

These amendments will take effect from 1 April 2016 relevant to the assessment year 2016-17 and subsequent assessment years.

Raising the limit of deduction under Sections 80DD and 80U for person with disability and severe disability

Presently the deduction under the said sections are allowed as below:
(i) Rs.50,000 in respect of a person with disability.
(ii) Rs.1,00,000 in respect of a person with severe disability.

The Finance bill proposes to enhance the limit from Rs.50,000 to Rs.75,000 and Rs.1,25,000 from Rs.1,00,000 as mentioned above.

This amendment will take effect from 1 April 2016 relevant to the assessment year 2016-17 and subsequent assessment years.

Raising the limit for deduction under Section 80CCC

Under section 80CCC, an individual tax payer is allowed deduction up to Rs. 1 lakh being amount paid by him to effect or to keep in force a contract for any annuity plan of an insurance company for receiving pension from a fund set up under the pension scheme.

The Finance Bill proposes to raise the limit to deduction under Section 80CCC to Rs.1,50,000.

This amendment will take effect from 1 April 2016 relevant to the assessment year 2016-17 and subsequent assessment years.

Additional deduction under Section 80CCD – PENSION SCHEME

Under the existing provisions of Section 80CCD an individual taxpayer is allowed a deduction of 10% of salary / income. The deduction is in respect of contribution in relation to National Pension Scheme.

It is also provided that amount of deduction will not exceed Rs.1 lakh.

The Finance bill proposes to remove the said ceiling of Rs.1 lakh.

The Finance Bill further proposes that an additional of Rs.50,000 will also be allowed being contribution made by individual tax payer under the NPS.

This amendment will take effect from 1 April 2016 relevant to the assessment year 2016-17 and subsequent assessment years.

F. SWACHCHH BHARAT (CLEAN INDIA)

Tax benefits for Swachchh Bharat Kosh (Fund) & Clean Ganga Fund

Contribution to above funds will now be eligible for 100% deduction from the total income under the provisions of section 80G of the Act. However, any amount spent in pursuance of corporate social responsibility under section 135(5) of the Companies Act, 2013 will not be eligible for deduction under section 80G.

The Finance Bill also proposes to give exemption from tax to the above funds.

These amendments will take retrospective effect from 1 April 2015 relevant to the assessment year 2015-16 and subsequent assessment years.

COMMENT

The outgo of a company if it contributes to the above fund will increase as such contribution will not be considered as an amount spent in pursuance of CSR activities. This may have a dampening effect on contributions to these funds.

G. RATIONALISATION MEASURES

Clarity regarding source rule in respect of interest received by the non-resident in certain cases

In order to provide clarity and certainty in the provisions of the Act it is proposed that in case of a non-resident being a person engaged in the business of banking, any interest payable by an Indian branch of a non resident foreign bank being the Permanent Establishment (PE) in India of such non-resident to the Head Office or any PE or any other part of such non-resident outside India will be deemed to accrue or arise in India and will be charged to tax in addition to any income attributable to the PE in India and such PE will be deemed to be a person separate and independent of the non-resident person of which it is a PE. Accordingly, the provisions of the Act relating to computation of total income, determination of tax and collection of recovery would apply. Further, the PE in India will be required to deduct tax at source on any interest payable either to HO or in any other branch or PE of a non-resident outside India.

Non deduction of tax at source would result in disallowance of interest claimed as expenditure by the PE as well as interest and penalty.

These amendments will be effective from 1 April 2016 relevant to the assessment year 2016-17 and subsequent assessment years.

Rationalisation of Provisions of Section 11 relating to accumulation of income by charitable trusts and institutions

The Finance Bill proposes to provide that in case of charitable trusts and institutions Form 10 will be required to be filed before the due date of filing return of income specified under section 139 of the Act for the fund or institution in case the trust or institution is unable to apply 85% of its income and thereby is desirous of opting for the benefit of accumulation.

In case Form 10 is not submitted before this date, then the benefit of accumulation will not be available and such income will be taxable at the applicable rate. Further, the benefit of accumulation will also not be available if a return of income is not furnished before the due date of filing return of income.

These amendments will take effect from 1 April 2016 relevant to the assessment year 2016-17 and subsequent assessment years.

Rationalising the provision under section 115JB (MAT)

The Finance Bill proposes to exempt the share in income of an Association of Persons (AOP) or Body of Individuals (BOI) earned by a member of such AOPs or BOIs from the purview of MAT. It also proposes to add back expenditure, if any, incurred to earn such share from the AOPs and the BOIs.

The Finance Bill also proposes to exempt the income of a FII, being capital gains arising on transactions in securities (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable), from the purview of MAT. It also proposes to increase the book profit by the amount of expenditure relatable to such capital gains.

These amendments will take effect from 1 April 2016 relevant to the assessment year 2016-17 and subsequent assessment years.

Orders passed by the prescribed authority under sub-clause (vi) & (via) of Clause (23C) of Section 10 made appealable before Income Tax Appellant Tribunal

The Finance Bill proposes to provide an appeal to the Income Tax Appellant Tribunal against the order passed by an authority under section 10(23C) (vi) and (via). These two sections relates to Educational Institutions and Hospitals.

This amendment will be effective from 1 June 2015.

Simplification of approval regime for issue of notice for reassessment

Under the existing provisions of the Act approval for issuing of notice for reassessment of income is given by different authorities.

In order to bring simplicity it is proposed that no notice under section 148 will be issued by a tax officer up to four years from the end of the relevant tax years without the approval of Joint Commissioner of Income Tax and beyond four years from the end of the relevant assessment years without the approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

This amendment will take effect from 1 June 2015.

Revision of Order that is erroneous in so far as it is prejudicial to the interests of revenue

In order to provide clarity to the expression "erroneous in so far as it is prejudicial to the interest of the revenue", it is proposed that an order passed by the tax officer will be deemed to be erroneous in so far as it is prejudicial to the interest of the revenue if, in the opinion of the Principal Commissioner or Commissioner –

a) The order is passed without making enquiries or verification which should have been made.

b) The order is passed allowing any relief without enquiring into the claim.
c) The order has not been made in accordance with any order, direction or instruction issued by the CBDT.
d) The order has not been passed in accordance with any decision, prejudicial to the taxpayer, rendered by the jurisdictional High court or Supreme court in the case of the assessee or any other person.

This amendment will take effect from 1 June 2015.

Clarification regarding deduction of tax from payments made to transporters

Under the existing provision of section 194C of the Act no tax is being deducted at source from payments made to transporters in case the transporters furnished their Permanent Account Number (PAN).

The Finance Bill proposes to change this situation to provide that the tax will be required to be deducted at source in case of payments made to a transporter owning more than 10 goods carriage at any time during the year.

This amendment will take effect from 1 June 2015.

Conditions for determining residency status in respect of companies

The Finance Bill proposes to amend section 6 of the Act to provide that a person being a company will be said to be resident in India in any year if –

i) It is an Indian company; or
ii) Its place of effective management, at any time, in that year is in India.

It is also proposed to define the place of effective management to mean where key management and commercial decisions that are necessary for conducting of a business as a whole are in substance made.

It is proposed that in due course a set of guiding principles to be followed in determination of place of effective management would be issued for the benefit of tax payers as well as tax administration.

These amendments will take effect from 1April 2016 relevant to the assessment year 2016-17 and subsequent assessment years.

Certain accountants not to give reports / certificates

The Finance Bill proposes to amend section 288 of the Act to provide that an auditor who is not eligible to be appointed as auditor of a company as per the provisions of section 141(3) of the Companies Act 2013 will not be eligible for carrying out any audit or furnishing of any report/certificate under any provisions of the Act in respect of that tax payer. It is however proposed to be clarified that ineligibility for carrying out any audit or furnishing of any report/certificate in respect of a tax payer will not make an accountant ineligible for attending income tax proceedings as authorized representative on behalf of that tax payer.

The Finance Bill further proposes that a person convicted by a court for an offence involving fraud shall not be eligible to act as authorized representative for a period of 10 years from the date of such conviction.

These amendments will take effect from 1 June 2015.

Cost of acquisition of a capital asset in the hands of resulting company to be the cost for which the de-merged company acquired the capital asset

Under the existing provision of the Act relating to transfer of capital asset, any capital asset transferred by a demerged company to the resulting company in the scheme of demerger is not regarded as transfer if the resulting company is an Indian company. The Finance Bill proposes that in such cases, the cost of assets in the hands of resulting company will be cost of such asset in the hands of demerged company as increased by the cost of improvement if any, incurred by the demerged company. It is also proposed that the period of holding of such assets in the hands of resulting company will include the period for which the asset was held by the demerged company.

This amendment will take effect from 1 April 2016 relevant to the assessment year 2016-17 and subsequent assessment years.

INDIRECT TAX PROPOSALS

SERVICE TAX PROPOSALS

CHANGE IN THE RATE OF TAX

Service Tax Rate has been increased from 12.36% (inclusive of education Cess) to 14 % (inclusive of education cess) whereas the threshold limit has remained the same.

This change in the rate of tax shall be effective from the date to be notified by the Central Government.

Besides the above, amendments have been proposed in some provisions of Service Tax, which are in four broad categories:

I. Measures to widen the tax base
II. New Exemptions
III. Changes in the Reverse Charge Mechanism
IV. Other changes

The highlights of such proposals are briefly stated in the following lines;

I. MEASURES TO WIDEN THE TAX BASE

A. Negative List under service-tax is being slightly pruned to widen the tax base

On a review of Negative List of Services, exemptions on certain services have been proposed to be withdrawn as listed below:

- Service Tax is proposed to be levied on the service provided by way of access to amusement facility providing fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks, theme parks or such other places.

- Service Tax is proposed to be levied on service by way of admission to entertainment event of concerts, non recognized sporting events, pageants, music concerts ,award functions if the charge for such service exceeds Rs.500/- for right to admission to such event.

- The entry in the Negative List that covers by way of any process amounting to manufacture or production of goods is being pruned to exclude any service by way of carrying out any process for production or manufacture of alcoholic liquor for human consumption. Thus Service Tax is proposed to be levied on job contract for production of portable liquor for a consideration.

- All services provided by the Government or local authority to a business entity, except the services are specifically exempted or covered by any other entry in the Negative List shall be liable to Service Tax.

All the above changes shall take effect from a date to be notified later.

B. Review of General Exemption

On a review of the general exemptions extended under Notification No.25/2012-ST dated 20.06.2012 following exemptions have been withdrawn with effect from 1st April, 2015:

i. Exemption presently available on specified services of construction, erection, commissioning etc. to Government, local authority or a government authority shall be limited only to :
   - a historical monument, archeological site/excavation or remains of national importance, antiquity.
   - canal, dam or other irrigation work.
   - pipeline, conduit or plant for water supply, water treatment or sewerage treatment or disposal.

ii. Exemptions to following other services are being withdrawn
   - Exemption to construction, erection, commissioning or installation of original works pertaining to a port or airport.
   - Exemption to services provided by a performing artist in folk or classical art form of music, dance or theatre will be limited to Rs.1,00,000/- for a performance.
   - Exemption to transportation of food stuff by rail/vessels/road will be limited to food grains including rice and pulses, flour, milk and salt. Transportation of agricultural produce will continue to be exempted.
   - Exemptions are being withdrawn on the following services
     - Services provided by a mutual fund agent to a mutual fund or assets management company,
     - distributor to a mutual fund or AMC,
     - selling or marketing agent of lottery ticket to a distributor.

II. NEW EXEMPTIONS

1. Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables are being exempted.
2. Services provided by a Common Effluent Treatment Plant operator for treatment of effluent are being exempted.
3. Life insurance services provided by way of Varishtha Pension Bima Yojna is being exempted.
4. Services provided by way of exhibition of movie by the exhibitor (theatre owner) to the distributor or association of persons consisting of such exhibitor as one of its members is being exempted.
5. Exemption of any service provided by way of transportation of a patient to and from a clinical establishment by a clinical establishment has been extended to all ambulance services also.
6. Services provided by way admission to museum. Zoo, national park, wild life sanctuary and a tiger reserve is being exempted.
7. Exemption of goods transport agency service provided for transport of export goods by rood from place of removal to an inland container depot, container freight station, a port or airport has been extended to such services provided form the place of removal to a Land Customs Station (LCS).

All the above new exemptions shall be effective from 1st day of April, 2015.

III. CHANGES IN THE REVERSE CHARGE MECHANISM

- Manpower supply and security services when provided by an individual, HUF or a partnership firm to a body corporate are being brought to full reverse charge.
- Services provided by mutual fund agents/distributors and agents of lottery distributor are being brought under reverse charge.

All the above changes shall effective from 1st day of April, 2015.

IV. OTHER CHANGES

A. Valuation of Service

- Services are leviable to tax on services provided by chit fund, distributors or selling agents of lottery.
- All reimbursable expenditure or cost incurred and charged by the service provider shall be included for the valuation of taxable services.
- Valuation of taxable service shall include amount retained by the distributor or selling agent of lottery from grass sale amount of lottery ticket or as case may be, the discount received.

B. Recovery of Tax

- Recovery of the service tax amount self assessed and declared in the return but not paid shall be made under section 87, without service of any notice under sub section (1) of section 73.
- The provision for reduced penalty, if true and complete details of transaction were available on specified records, is being withdrawn.

C. Rationalization in penal provisions

- In cases not involving fraud or collusion or willful mis-statement or suppression of facts or contravention of any provisions or rules with the intent to evade tax the penalty shall be rationalized as under :
    - Penalty not to exceed 10% of service tax.
    - No penalty if service tax and interest is paid within 30 days of the notice issued.
    - A reduced penalty equal to 25% of the penalty imposed by the central excise officer is to be paid if service tax, interest and reduced penalty is paid within 30 days of such order.
    - If service tax amount gets reduced in appeal than penalty amount shall also stand modified and benefit of reduced penalty (25%) shall be admissible if service tax, interest and penalty is paid within 30 days of appellate order.
- In cases involving fraud or collusion or willful mis-statement or suppression of facts or contravention of any provisions or rules with the intent to evade tax the penalty shall be rationalized as under :
    - Penalty shall be 100% of service tax.
    - Penalty equal to 15% of the service tax is to be paid if service tax, interest and penalty is paid within 30 days of the notice issued in this regard.
    - A reduced penalty equal to 25% of the service tax determined by the central excise officer is to be paid if service tax, interest and reduced penalty is paid within 30 days of such order.
    - If service tax amount gets reduced in appeal than penalty amount shall also stand modified and benefit of reduced penalty (25%) shall be admissible if service tax, interest and penalty is paid within 30 days of appellate order.
- Provision for waiver of penalty in specified situations is being omitted.

The above amendments shall be effective from 01.04.2015

D. Rationalization of Abatements

The rationalization of abatements, as detailed below, shall come into effect from 1st day of April, 2015:

- A uniform abatement to the effect that service tax shall be payable on 30% of the value of services for transport of goods by rail, road and vessel subject to a uniform condition of non-availment of Cenvat Credit on inputs, capital goods and input services.
- Service Tax would be payable on 60% of the of the air transport passenger of classes other than economy.
- Abatement is being withdrawn from chit fund service.

E. Changes in Service Tax rules

- In respect of any service provided under aggregator model, the aggregator or any of his representative office located in India, is being made liable to pay Service Tax if the service is so provided using the brand name of the aggregator in any manner. If an aggregator does not have any presence, including that by way of a representative, in such a case any agent appointed by the aggregator shall pay the tax on behalf of the aggregator. In this regard appropriate amendments have been made in rule 2 of the Service Tax Rules, 1994 and notification No. 30/2012 dated 20.06.2012.

  This change comes into effect from 1st March, 2015.

- Rule 4 is being amended to provide that CBEC, by way of an order specify the conditions, safeguards and procedure for registration in service tax;
- Provisions for issuing digitally singed invoices are being added along with the option of presentation of records in electronic form. The conditions and procedure in this regard shall be specified by the CBEC;
- Recovery of service tax self-assessed and declared in the return under section 87 is being omitted consequent to amendment in section 73 for enabling such recovery;
- Consequent to the upward revision in the service tax rates the alternative rates applicable to certain services, e.g., money changing service, air travel agent service, insurance service, service provided by lottery distributor and selling agent, shall also be revised proportionately.

These amendments shall come into effect from the date to be notified later.

F. Cenvat Credit Rules, 2004

Rule 4 (7) is being amended with effect from 01.04.2015 to allow credit of service tax paid under partial reverse charge by the service receiver without linking it to the payment to the service provider.

COMMENT

The widening of tax base coupled with the increase in the service tax rates by 1.64% will have general impact on the price hike in certain sector of services in spite of rationalizing the exemptions and or exemptions extended to certain services.

CUSTOMS DUTY PROPOSALS

INCREASE IN RATES HAS BEEN PROPOSED

An increase in customs duty rate has been proposed for the following items:

Items	Existing Rate	Proposed Rate
Motor vehicles for transport of 10 or more persons and for transport of goods	10%	20%
Metallurgical coke	2.5%	5%

REDUCTION IN RATES HAS BEEN PROPOSED

The Finance Bill further proposed a reduction in customs duty rates for the following items:

Items	Existing Rate	Proposed Rate
Sulphuric acid used in the manufacturing of fertilizers, butyl acrylate, certain materials for manufacture of refrigerator compressor and catalytic converters	7.5%	5%
Antimony metal and antimony waste and scrap, specified inputs used in the manufacturing of flexible medical video endoscope	5%	2.5%
Metal parts used in the manufacturing of electrical insulators , specified components for manufacture of insulated wires and cables	10%	7.5%
Specified components used in the manufacturing of specified CNC Lathe machines and machining centers	7.5%	2.5%

FULL EXEMPTION FROM BCD HAS BEEN PROPOSED FOR CERTAIN ITEMS

The Finance Bill also proposes full exemption from Basic Customs Duty for the following items:

- Ulexite Ore
- Magnetron of Upto 1KW used in the manufacturing of domestic microwave
- Organic LED TV panels
- Digital Still Image Video Camera with specified features and on components used in manufacture of such cameras
- HDPE used in the manufacturing of telecommunication grade optical fiber cables
- Specified components used in the manufacturing of solar water heaters

OTHER CUSTOMS DUTY PROPOSALS

The following are some of the other important proposals for Customs Duty:

- Increase in the tariff rate of BCD on iron and steel and items of iron and steel from 10% to 15%.
- Increase in the tariff rate of BCD on motor vehicles for transport of 10 or more persons and for transport of goods from 10% to 40%.
- Increase in scheduled rates of CVD on Motor Spirit (Petrol) and High Speed Diesel Oil from Rs. 2 per litre to Rs. 8 per litre. The effective rates of CVD on these items have been proposed to be increased from Rs. 2 per litre to Rs. 6 per litre.
- Decrease in the tariff rate of BCD on bituminous coal from 55% to 10%
- Decrease in SAD from 4% to 2% on naptha, melting scrap of iron and steel, copper scrap, brass scrap and aluminium scrap.

- Full exemption from BCD, CVD and SAD on components used in manufacture of tablet computers.
- Exemption from SAD on specified inputs used in the manufacturing of LED Drivers, MCPCB for LED Lights and ITA Bound Items.
- Exemption from CVD and SAD on specified raw materials used in the manufacturing of pacemakers.
- Exemption from BCD and CVD on artificial hearts.

EXCISE DUTY PROPOSALS

INCREASE IN STANDARD AD VALOREM RATE OF BASIC EXCISE DUTY

As a preparatory step to shift to GST in the FY 2016-17, Education Cess, Secondary & Higher Secondary Education Cess leviable on excisable goods are being subsumed in Basic Excise Duty resulting in standard ad valorem rate of Basic Excise Duty to be increased from 12% to 12.5%.

INCREASE IN RATES HAVE BEEN PROPOSED

An increase in Excise Duty rates have been proposed for the following:

- On water including mineral water, aerated water containing added sugar or other sweetening matter or flavoured from 12% to 18%. *However the additional duty of excise of 5% on these items is being omitted.*
- Increase by 25% on cigarettes with length not exceeding 65mm and by 15% on cigarettes of other lengths.
- On cut tobacco from Rs. 60 per kg to Rs. 70 per kg.
- On sacks and bags of plastics from 12% to 18%.
- On mobile phones from 1% without credit or 6% with credit to 1% without credit or 12.5% with credit.

DECREASE IN RATES HAVE BEEN PROPOSED

A decrease in Excise Duty rates have been proposed for the following:

- On chassis for ambulances from 24% to 12.5%.
- On specified components used in manufacture of integrated circuit (IC) modules for smart cards and LED Drivers from 12% to 6%.
- On specified leather footwear with retail sale price exceeding Rs. 1000 per pair from 12% to 6%.

FULL EXEMPTION HAS BEEN PROPOSED

Full exemption of Excise Duty have been proposed for the following:

- On specified components used in the manufacturing of tablet computers, pacemakers, cast components of wind operated electricity generators , solar PV cells.
- On captively consumed intermediate compound generated during manufacture of Agarbattis.

OTHER PROPOSALS

Some other proposals include:

- Online Central Excise registration can be done in 2 working days.
- Time limit for taking CENVAT credit on inputs credit increased from 6 months to 1 year.
- Concessions on excise duty available to electrically operated vehicles and hybrid vehicles extended upto 31st March 2016.
- Though the rates of CENVAT, SAED, AED and Education Cess on Petrol and High Speed Diesel Oil have been changed but the total incidence of these duties remains unchanged.

- Iced Tea & condensed milk and lemonade & specified beverages notified for assessment under Central Excise Duty with reference to Retail Sale Price with abatement of 30% and 35% respectively.
- Increase in scheduled rate of Clean Energy Cess levied on coal, lignite and peat from Rs. 100 per tonne to Rs. 300 per tonne. Increase in effective rate of Clean Energy Cess on these items from Rs. 100 per tonne to Rs. 200 per tonne.
- Increase in Tariff Rate of Excise Duty on ordinary Portland Cement from Rs. 900 per tonne to Rs 1,000 per tonne.

OTHER BUDGET PROPOSALS

Good governance

- Government committed to the process of rationalizing subsidies.
- Direct Transfer of Benefits to be extended further with a view to increase the number of beneficiaries from Rs. 1 crore to Rs. 10.3 crore.

Agriculture

- 'Paramparagat Krishi Vikas Yojana' to be fully supported.
- 'Pradhanmantri Gram Sinchai Yojana' to provide 'Per Drop More Crop'.
- Rs. 5,300 crore to support micro-irrigation, watershed development and the 'Pradhan Mantri Krishi Sinchai Yojana'. States urged to chip in.
- Rs. 25,000 crore in 2015-16 to the corpus of Rural Infrastructure Development Fund (RIDF) set up in NABARD; Rs.15,000 crore for Long Term Rural Credit Fund; Rs. 45,000 crore for Short Term Co-operative Rural Credit Refinance Fund; and Rs.15,000 crore for Short Term RRB Refinance Fund.
- Target of Rs. 8.5 lakh crore of agricultural credit during the year 2015-16.
- Need to create a National Agriculture Market for the benefit farmers, which will also have the incidental benefit of moderating price rises. Government to work with the States, in NITI, for the creation of a Unified National Agriculture Market.

Funding the Unfunded

- Micro Units Development Refinance Agency (MUDRA) Bank, with a corpus of Rs. 20,000 crores, and credit guarantee corpus of Rs. 3,000 crores to be created and priority will be given to SC/ST enterprises.
- MUDRA Bank will be responsible for refinancing all Micro-finance Institutions which are in the business of lending to such small entities of business through a Pradhan Mantri Mudra Yojana.
- A Trade Receivables discounting System (TReDS) which will be an electronic platform for facilitating financing of trade receivables of MSMEs to be established.
- Comprehensive Bankruptcy Code of global standards to be brought in fiscal 2015-16 towards ease of doing business.
- Postal network with 1,54,000 points of presence spread across villages to be used for increasing access of the people to the formal financial system.
- NBFCs registered with RBI and having asset size of Rs. 500 crore and above may be considered for notifications as 'Financial Institution' in terms of the SARFAESI Act, 2002.

From Jan Dhan to Jan Suraksha

- To work towards creating a functional social security system for all Indians, specially the poor and the under-privileged.
- Pradhan Mantri Suraksha Bima Yojna to cover accidental death risk of Rs. 2 Lakh for a premium of just Rs.12 per year.
- Atal Pension Yojana to provide a defined pension, depending on the contribution and the period of contribution. Government to contribute 50% of the beneficiaries' premium limited to Rs. 1,000 each year, for five years, in the new accounts opened before 31st December 2015.
- Pradhan Mantri Jeevan Jyoti Bima Yojana to cover both natural and accidental death risk of Rs. 2 lakh at premium of Rs. 330 per year for the age group of 18-50.
- A new scheme for providing Physical Aids and Assisted Living Devices for senior citizens, living below the poeverty line.
- Unclaimed deposits of about `3,000 crores in the PPF, and approximately Rs.6,000 crores in the EPF corpus. The amounts to be appropriated to a corpus, which will be used to subsidize the premiums on these social security schemes through creation of Senior Citizen Welfare Fund in the Finance Bill.

Infrastructure

- Sharp increase in outlays of roads and railways. Capital expenditure of public sector units to also go up.
- National Investment and Infrastructure Fund (NIIF), to be established with an annual flow of Rs. 20,000 crores to it.
- Tax free infrastructure bonds for the projects in the rail, road and irrigation sectors.
- PPP mode of infrastructure development to be revisited and revitalised.
- Atal Innovation Mission (AIM) to be established in NITI to provide Innovation Promotion Platform involving academicians, and drawing upon national and international experiences to foster a culture of innovation , research and development. A sum of Rs.150 crore will be earmarked.
- Concerns of IT industries for a more liberal system of raising global capital, incubation facilities in our Centres of Excellence, funding for seed capital and growth, and ease of Doing Business etc. would be addressed for creating hundreds of billion dollars in value.
- (SETU) Self-Employment and Talent Utilization) to be established as Techno-financial, incubation and facilitation programme to support all aspects of start-up business. Rs.1000 crore to be set aside as initial amount in NITI.
- Ports in public sector will be encouraged, to corporatize, and become companies under the Companies Act to attract investment and leverage the huge land resources.
- An expert committee to examine the possibility and prepare a draft legislation where the need for multiple prior permission can be replaced by a pre-existing regulatory mechanism. This will facilitate India becoming an investment destination.
- 5 new Ultra Mega Power Projects, each of 4000 MW, in the Plug-and-Play mode.

Financial Market

- Public Debt Management Agency (PDMA) bringing both external and domestic borrowings under one roof to be set up this year.
- Enabling legislation, amending the Government Securities Act and the RBI Act included in the Finance Bill, 2015.
- Forward Markets commission to be merged with SEBI.
- Section-6 of FEMA to be amended through Finance Bill to provide control on capital flows as equity will be exercised by Government in consultation with RBI.
- Proposal to create a Task Force to establish sector-neutral financial redressal agency that will address grievance against all financial service providers.
- India Financial Code to be introduced soon in Parliament for consideration.
- Vision of putting in place a direct tax regime, which is internationally competitive on rates, without exemptions.
- Government to bring enabling legislation to allow employee to opt for EPF or New Pension Scheme. For employee's below a certain threshold of monthly income, contribution to EPF to be option, without affecting employees' contribution.

Monetising Gold

- Gold monetisation scheme to allow the depositors of gold to earn interest in their metal accounts and the jewellers to obtain loans in their metal account to be introduced.
- Sovereign Gold Bond, as an alternative to purchasing metal gold scheme to be developed.
- Commence work on developing an Indian gold coin, which will carry the Ashok Chakra on its face.

Investment

- Foreign investments in Alternate Investment Funds to be allowed.

- Distinction between different types of foreign investments, especially between foreign portfolio investments and foreign direct investments to be done away with. Replacement with composite caps.
- A project development company to facilitate setting up manufacturing hubs in CMLV countries, namely, Cambodia, Myanmar, Laos and Vietnam.

Safe India
- Rs.1000 crores to the Nirbhaya Fund.

Tourism
- Resources to be provided to start work along landscape restoration, signage and interpretation centres, parking, access for the differently abled , visitors' amenities, including securities and toilets, illumination and plans for benefiting communities around them at various heritage sites.
- Visas on arrival to be increased to 150 countries in stages.

Green India
- Target of renewable energy capacity revised to 175000 MW till 2022, comprising 100000 MW Solar, 60000 MW Wind, 10000 MW Biomass and 5000 MW Small Hydro.
- A need for procurement law to contain malfeasance in public procurement.
- Proposal to introduce a public Contracts (resolution of disputes) Bill to streamline the institutional arrangements for resolution of such disputes.
- Proposal to introduce a regulatory reform Bill that will bring about a cogency of approach across various sectors of infrastructure.

Skill India
- Less than 5% of our potential work force gets formal skill training to be employable. A national skill mission to consolidate skill initiatives spread across several ministries to be launched.
- Deen Dayal Upadhyay Gramin Kaushal Yojana to enhance the employability of rural youth.
- A Committee for 100th birth celebration of Shri Deen Dayalji Upadhyay to be announced soon.
- A student Financial Aid Authority to administer and monitor the front-end all scholarship as well Educational Loan Schemes, through the Pradhan Mantri Vidya Lakshmi Karyakram.
- An IIT to be set up in Karnataka and Indian School of Mines, Dhanbad to be upgraded in to a full-fledged IIT.
- New All India Institute of Medical Science (AIIMS) to be set up in J&K, Punjab, Tamil Nadu, Himachal Pradesh and Assam. Another AIIMS like institutions to be set up in Bihar.
- A post graduate institute of Horticulture Research & Education is to be set up in Amritsar.
- 3 new National Institute of Pharmaceuticals Education and Research in Maharashtra, Rajasthan & Chattisgarh and one institute of Science and Education Research is to be set up in Nagaland & Orissa each.
- An autonomous Bank Board Bureau to be set up to improve the governance of public sector bank.
- The National Optical Fibre Network Programme (NOFNP) to be further speeded up by allowing willing states to execute on reimbursement of cost basis.
- Special assistance to Bihar & West Bengal to be provided as in the case of Andhra Pradesh.
- Government is committed to comply with all the legal commitments made to AP & Telengana at the time of their re-organisation.

- Inspite of large increase in devolution to state sufficient fund allocated to education, health, rural development, housing, urban development, women and child development, water resources & cleaning of Ganga.
- Part of Delhi-Mumbai Industrial Corridor (DMIC); Ahmedabad-Dhaulera Investment region and Shendra-Bidkin Industrial Park are now in a position to start work on basic infrastructure.
- Made in India and the Buy and the make in India policy are being carefully pursued to achieve greater self-sufficiency in the area of defense equipment including air-craft.
- The first phase of GIFT to become a reality very soon. Appropriate regulations to be issued in March.

Black Money

- Generation of black money and its concealment to be dealt with effectively and forcefully.
- Investigation into cases of undisclosed foreign assets has been given highest priority in the last nine months.
- Major breakthrough with Swiss authorities, who have agreed to:
    - Provide information in respect of cases independently investigated by IT department;
    - Confirm genuineness of bank accounts and provide non-banking information;
    - Provide such information in time-bound manner; and
    - Commence talks for automatic exchange of information.
- New structure of electronic filing of statements by reporting entities to ensure seamless integration of data for more effective enforcement.
- Bill for a comprehensive new law to deal with black money parked abroad to be introduced in the current session.
- Key features of new law on black money:
    - Evasion of tax in relation to foreign assets to have a punishment of rigorous imprisonment upto 10 years, be non-compoundable, have a penalty rate of 300% and the offender will not be permitted to approach the Settlement Commission.
    - Non-filing of return/filing of return with inadequate disclosures to have a punishment of rigorous imprisonment upto 7 years.
    - Undisclosed income from any foreign assets to be taxable at the maximum marginal rate.
    - Mandatory filing of return in respect of foreign asset.
    - Entities, banks, financial institutions including individuals all liable for prosecution and penalty.
    - Concealment of income/evasion of income in relation to a foreign asset to be made a predicate offence under PML Act, 2002.
    - PML Act, 2002 and FEMA to be amended to enable administration of new Act on black money.
- Benami Transactions (Prohibition) Bill to curb domestic black money to be introduced in the current session of Parliament.
- Acceptance or re-payment of an advance of Rs. 20,000 or more in cash for purchase of immovable property to be prohibited.
- PAN being made mandatory for any purchase or sale exceeding Rs. 1 lakh.
- Third party reporting entities would be required to furnish information about foreign currency sales and cross border transactions.
- Provision to tackle splitting of reportable transactions.
- Leverage of technology by CBDT and CBEC to access information from either's data bases.

Make in India

- Revival of growth and investment and promotion of domestic manufacturing for job creation.
- Tax "pass through" to be allowed to both category I and category II alternative investment funds.
- Rationalisation of capital gains regime for the sponsors exiting at the time of listing of the units of REITs and InvITs.
- Rental income of REITs from their own assets to have pass through facility.
- Permanent Establishment (PE) norm to be modified to encourage fund managers to relocate to India.
- General Anti Avoidance Rule (GAAR) to be deferred by two years.
- GAAR to apply to investments made on or after 01.04.2017, when implemented.
- Additional investment allowance (@ 15%) and additional depreciation (@35%) to new manufacturing units set up during the period 01-04-2015 to 31-03-2020 in notified backward areas of Andhra Pradesh and Telangana.
- Rate of Income-tax on royalty and fees for technical services reduced from 25% to 10% to facilitate technology inflow.
- Benefit of deduction for employment of new regular workmen to all business entities and eligibility threshold reduced.
- Basic Custom duty on certain inputs, raw materials, inter mediates and components in 22 items, reduced to minimise the impact of duty inversion.
- All goods, except populated printed circuit boards for use in manufacture of ITA bound items, exempted from SAD.
- SAD reduced on import of certain inputs and raw materials.
- Excise duty on chassis for ambulance reduced from 24% to 12.5%.
- Balance of 50% of additional depreciation @ 20% for new plant and machinery installed and used for less than six months by a manufacturing unit or a unit engaged in generation and distribution of power is to be allowed immediately in the next year.

Ease of doing business – Minimum Government Maximum Governance

- Simplification of tax procedures.
- Monetary limit for a case to be heard by a single member bench of ITAT increase from Rs. 5 lakh to Rs.15 lakh.
- Penalty provision in indirect taxes are being rationalised to encourage compliance and early dispute resolution.
- Central excise/Service tax assesses to be allowed to use digitally signed invoices and maintain record electronically.
- Wealth-tax replaced with additional surcharge of 2 per cent on super rich with a taxable income of over Rs.1 crore annually.
- Provision of indirect transfers in the Income-tax Act suitably cleaned up.
- Applicability of indirect transfer provisions to dividends paid by foreign companies to their shareholders to be addressed through a clarificatory circular.
- Domestic transfer pricing threshold limit increased from Rs.5 crore to Rs. 20 crore.
- MAT rationalised for FIIs and members of an AOP.
- Tax Administration Reform Commission (TARC) recommendations to be appropriately implemented during the course of the year.
- Education cess and the Secondary and Higher education cess to be subsumed in Central Excise Duty.
- Specific rates of central excise duty in case of certain other commodities revised.
- Excise levy on cigarettes and the compounded levy scheme applicable to pan masala, gutkha and other tobacco products also changed.
- Excise duty on footwear with leather uppers and having retail price of more than Rs.1000 per pair reduced to 6%.
- Online central excise and service tax registration to be done in two working days.
- Time limit for taking CENVAT credit on inputs and input services increased from 6 months to 1 year.

- Service-tax plus education cesses increased from 12.36% to 14% to facilitate transition to GST.
- Donation made to National Fund for Control of Drug Abuse (NFCDA) to be eligible for 100% deduction u/s 80G of Income-tax Act.
- Seized cash can be adjusted towards assessees tax liability.

Swachh Bharat

- 100% deduction for contributions, other than by way of CSR contribution, to Swachh Bharat Kosh and Clean Ganga Fund.
- Clean energy cess increased from Rs. 100 to Rs. 200 per metric tonne of coal, etc. to finance clean environment initiatives.
- Excise duty on sacks and bags of polymers of ethylene other than for industrial use increased from 12% to 15%.
- Enabling provision to levy Swachh Bharat cess at a rate of 2% or less on all or certain services, if need arises.
- Services by common affluent treatment plant exempt from Service-tax.
- Concessions on custom and excise duty available to electrically operated vehicles and hybrid vehicles extended upto 31.03.2016.

K 8, Radha Apartments,
2nd Floor, Opp. City Point,
Telli Galli, Andheri (East),
Mumbai – 400 069
Phone : +91 22 26820546 / 47

SAKET, 3rd Floor
2, Ho Chi Minh Sarani
Kolkata-700 071
Phone : +91 33 4005 0907 / 8 / 9
Facsimile : +91 33 4005 0910

http://www.dcbco.in

Nayna Enterprises • 98304 12014